

UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION

IN RE:)
) Case No.: 18-10228
WORLEY KEVIN HOOVER)
) Chapter 11
Debtor.)

MOTION TO DISMISS

The Office of the Bankruptcy Administrator for the Western District of North Carolina ("Bankruptcy Administrator") moves the Court for an Order dismissing the Debtor's case and says:

1. This is a Chapter 11 proceeding in which a voluntary petition was filed on May 31, 2018.
2. On June 4, 2018, an Operating Order was entered in this case [D.E. 8]. That Order provided, in part, that the Debtor file monthly status reports, file quarterly fee statements and pay quarterly fees.
3. The Debtor has not filed any monthly status reports since filing his case. As of the date of this Motion, the Debtor owes reports for May, June and July 2018. The August 2018 report will be due by September 30, 2018.
4. The Debtor owes the quarterly fee statement and quarterly fees for the second quarter of 2018.
5. The Debtor's 11 U.S.C. § 341 Meeting of Creditors ("Meeting") was held on June 28, 2018. At the Meeting, the Bankruptcy Administrator requested that the Debtor provide the following documentation or file amendments to his schedules and statements as follows:
 - a. A copy of the Kevin Hoover Infinity Trust; no copy has been provided.
 - b. 2016 and 2017 tax returns; the Debtor provided his 2016 tax returns and the request for an extension for his 2017 tax returns.
 - c. A copy of his settlement with Danny Sharpe; no copy has been provided.
 - d. Amend Schedule A if needed depending on when the settlement with Danny Sharpe was finalized; Schedule A has not been amended.
 - e. Amend Schedules G and I; Schedules G, I, and J have been amended.

- f. Amend question 9 of his Statement of Financial Affairs; no amendment has been filed.
6. On June 15, 2018, United Federal Credit Union (“UFCU”) filed a Motion for Relief from the Automatic Stay or for Adequate Protection [D.E. 14]. On July 23, 2018, an Order Granting Adequate Protection to United Federal Credit Union was entered [D.E. 24]. That Order required the Debtor to make adequate protection payments to UFCU in the amount of \$15,000.00 per month beginning in August 2018.
7. On June 15, 2018, UFCU filed a Motion to Prohibit the Unauthorized Use of Cash Collateral [D.E. 15]. On July 23, 2018, an Order Granting Motion to Prohibit the Unauthorized Use of Cash Collateral was entered [D.E. 25] that permitted the Debtor to use rents generated by the real property serving as collateral to UFCU only to pay it adequate protection payments required by other orders of this court.
8. On August 21, 2018, the Debtor filed a Motion for Authority to Use Cash Collateral (“Cash Collateral Motion”) [D.E. 33]. A hearing on the Debtor’s motion is scheduled to be heard on October 18, 2018.
 - a. Upon information and belief, the Debtor may be using cash collateral in violation of 11 U.S.C. § 363(c)(2).
 - b. According to the budget attached to the Cash Collateral Motion, the Debtor’s only source of income is from rents, and the Bankruptcy Administrator is unaware of any other sources of income the Debtor may have.
9. Cause exists to dismiss the Debtor’s case under 11 U.S.C. § 1112(b) that provides “the court shall convert a case under this chapter to a case under chapter 7 or dismiss a case under this chapter, whichever is in the best interests of creditors and the estate, for cause” Cause includes
 - a. Unauthorized use of cash collateral substantially harmful to 1 or more creditors pursuant to 11 U.S.C. § 1112(b)(4)(D).
 - b. Failure to comply with an order of the court pursuant to 11 U.S.C. § 1112(b)(4)(E).
 - c. Unexcused failure to satisfy timely any filing or reporting requirement established by this title or by any rule applicable to a case under this chapter pursuant to 11 U.S.C. § 1112(b)(4)(F).
 - d. Failure to timely provide information or attend meetings reasonably requested by the United States trustee (or the bankruptcy administrator, if any).
 - e. Failure to pay any fees or charges required under chapter 123 of title 28 pursuant to 11 U.S.C. § 1112(b)(4)(K). *See*, 28 U.S.C. § 1930(a)(6) and (a)(7).

Wherefore, the undersigned moves the Court to dismiss this case and for such other and further relief as the Court deems just and proper.

Dated: September 20, 2018.

/s/ Alexandria P. Kenny

Alexandria P. Kenny

Staff Attorney

United States Bankruptcy Administrator

402 W. Trade Street, Suite 200

Charlotte, NC 28202-1669

N.C. Bar #24352

Telephone: (704) 350-7587 Fax: (704) 344-6666

Email: alexandria_p_kenny@ncwba.uscourts.gov

UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION

IN RE:)
) Case No.: 18-10228
WORLEY KEVIN HOOVER)
) Chapter 11
Debtor.)

CERTIFICATE OF SERVICE

The undersigned certifies that the pleading(s) or paper(s) to which this Certificate is affixed was served upon the party(s) to this action listed below by depositing a copy of the same, enclosed in a first-class postpaid, properly addressed wrapper, in a Post Office or official depository under the exclusive care and custody of the United States Postal Service and/or by means of the Electronic Filing System of the Bankruptcy Court on September 20, 2018.

Worley Kevin Hoover
P.O. Box 975
Fletcher, NC 28732

Benson T. Pitts
- Served electronically

/s/ Alexandria P. Kenny
Alexandria P. Kenny
Staff Attorney
United States Bankruptcy Administrator
402 W. Trade Street, Suite 200
Charlotte, NC 28202-1669
N.C. Bar #24352
Telephone: (704) 350-7587 Fax: (704) 344-6666
Email: alexandria_p_kenny@ncwba.uscourts.gov